IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 798 of 2006.
Reserved on: 22-3-2007.

Date of Decision: 02 .04.2007.

Chaman Lal Thakur and another. Petitioners.

Versus

State of H.P. and others. Respondents.

Coram
Hon'ble Mr. Justice Deepak Gupta, J.
Hon'ble Mr. Justice Surinder Singh, J.

Whether approved for reporting[1]?

For the petitioners : Mr. Sanjeev Bhushan, Advocate.

For the respondent No.2: Mr. H.S. Rawat, Advocate.

For the respondent No. 1 to 3 : Mr. M.S. Chandel, Advocate General with Mr. R.M. Bisht, Dy. Advocate General.

Mr. K.D. Sood & Dalip Sharma, Advocates, for Applicants in CMP No. 1714 of 2006.

Per Surinder Singh, J.

The present petition has been filed as a Public Interest Litigation by the petitioners seeking, mainly, the following relief:

> "(i) That the decision of the respondents for construction of bus stand at the present site may very kindly be called from the respondents (as though the petitioners tried to lay their hands to procure the decision but could not lay their hands) and the same may very kindly be quashed

[1] Whether reporters of the Local papers are allowed to see the judgment?

> and set aside with further directions to the respondents to construct the bus stand on the earlier proposed land bearing khasra Nos. 212, 214, 187 and 189 in the interest of public at large..”

The controversy raised in this petition is that about twelve years ago, a decision was alleged to have been taken by the respondents to construct the Bus Stand at Arki and in pursuance to the said decision, the State Government transferred the land in the name of Himachal Road Transport Corporation comprising khasra numbers 212, 214, 187 and 189 measuring around three bighas, tatima of which has been placed on the record as Annexure-P1. The said land was stated to be a plain piece of land and was not having any trees and this place, on account of its location within the heart of the town, was most suitable to the public at large but the petitioners were surprised to know that the Government had changed its decision and took fresh decision to construct the bus stand at another place which is adjacent to the Hospital and Court complex. However, this apart, there are also about seven ‘Tuhni’ trees some of which are about four feet in dia and there are also about thirty trees of different species which would be cut and up-rooted, by this the green patch would be destroyed. The photographs of the site are also attached. It is contended that some of the Government buildings would also be necessarily demolished which would cause an un-necessary burden on the State Exchequer. Thus, it is required by the respondents to be explained before the Court as to how they have taken this irrational decision whereas, at the previous site, some more Government land was also available for future extension thus, sought the above relief.

The matter came up before this Court for the first time on 27-9-2006 and this Court passed the following order:

> "Before we proceed any further in this matter, we wish to have before us an inspection report and a recommendation from Mr. Srikant Baldi, M.D, HRTC. We accordingly direct him to inspect the town in the light of the averments made in the writ petition and based upon such inspection as well as his own assessment linked with objective criteria to make a suitable recommendation. The report of Mr. Baldi shall be filed in the Court on the next date along with his personal affidavit".

In compliance of the aforesaid order, Shri Srikant Baldi, Managing Director, Himachal Road Transport Corporation, visited the spot and has filed his detailed report. The option was given to the petitioner to file the rejoinder. Though the rejoinder was filed by the petitioner but it was in the form of objections wherein the allegations were leveled against the said Officer that he was carried away by the presence of Shri Dharam Pal Thakur, Deputy Speaker of Vidhan Sabha who is also a local M.L.A. Thus in order to give benefit to some handful of persons, he gave the aforesaid report. It was further averred that earlier site was also shown to the said officer, personally he felt satisfied about the suitability of it for the proposed purpose but its mention the report was deliberately avoided by him.

We have heard the learned counsel for the parties and perused the report aforesaid.

This Court, as already stated above, had appointed an Officer of integrity for the said purpose to enlighten the Court about the exact

position in the light of the averments made in the petition. He acted as an Officer of the Court. He had inspected the spot in the presence of the petitioners and other local persons. He had inspected the site on 27-10-2006 and Shri S.C. Sehgal, Superintending Engineer, H.P.S.I.D.C, Shri Biri Singh Divisional Manager, HRTC Shimla, Shri S.P. Sharma, Tehsildar Arki, Shri Ashwani Kumar, Range Forest Officer, Arki and Shri Anil Sen, Deputy Divisional Manager, HRTC Solan were also present. He also visited both the sites, i.e, Bus stand sites at khasra numbers 212, 214, 187 and 189 as proposed by the petitioners and near Court complex over khasra number 322 and 350. On the inspection of the newly selected place, he observed that two buildings of H.P.S.E.B, one building of H.P.P.W.D and one private building existed on the proposed site of the bus stand, the Public Works Department has already vacated its accommodation. However, H.P.S.E.B. has not vacated the accommodation though alternative accommodation was allotted to them and also to Executive Engineer, PWD by SDO (C) vide his office orders dated 1.12006 and 14-9-2006. The matter was discussed by him with the Executive Engineer, who informed that he would vacate the accommodation soon. The Range Forest Officer and Tehsildar Arki were instructed to count the trees standing on the proposed site, they found seventy-five trees out of which fourteen are of Eucalyptus, thirty-four of Toon and twenty-seven other species. As per the lay out plan of proposed bus stand (Annexure-G) the construction of the bus stand is proposed mainly on khasra number 322 and around it which has only twelve trees which are required to be felled for construction of the bus stand and most of the remaining trees are in khasra number 350 near the boundary of the proposed bus stand which are not required to be cut for the construction of the proposed bus stand. The location of the trees is

clearly marked in Annexure-F/A). On inspecting both the sites, he has concluded as under:

> " This bus stand site is located near the main road and is also close to Arki town. There is no specific hazard due to location of bus stand at this site. The Judicial Court Complex and Hospital is also near to the proposed site, therefore, this location is suitable for passengers/commuters. The land available at this site is more than the first site. It is true that there are residential buildings of HPSEB and HP PWD on the proposed site, which are required to be dismantled. However, alternate accommodations have already been provided to them. There are 75 trees on the site but only 12 trees are likely to be cut for the construction of bus stand. In view of all these facts, this site appears to be suitable for construction of bus stand. It is submitted that HP Bus Stand Development Authority has allotted the construction of bus stand at this site to HPSIDC.
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> It is also submitted, that at present there is no proper bus stand in Arki town and bus stop along the main road (Kunihar-Arki road), which hampers the smooth flow of traffic. Thus, there is dire necessity to construct a bus stand at Arki and the site near Court Complex measuring 5.12 Bigha is suitable for construction of Bus Stand, Arki".

The respondents have admitted in their reply that the land sought to be leased out to the 'H.P. Bus Stand Management and Development Authority' for the construction of the proposed bus stand is about 5

bighas 12 biswas at the new place. The report of the Managing Director, H.R.T.C. also synchronizes with the reply filed by the respondents.

With a view to know the exact location and position, this Court desired from the Officer to have his own assessment linked with the objective criteria to make a suitable recommendation which report spells out every thing as stated above.

As already said, the plea of the petitioners is that the earlier land is vacant and located within the heart of town owned by the Government should have been utilized for the said purpose. In our considered view, the respondents have taken a decision in the best interest of the public after examining the pros and cons and the report of Mr.Baldi is self explicit and reasonable. The plea raised by the petitioner in the rejoinder is unsubstantiated and is required to be rejected out right for the reasons that the vacant portion situated within the town cannot be allowed to be polluted in any way. The Bus stand at the earlier place would not only create noise problem to the inhabitants of the area but shall also create hygienic, cleanliness and environmental problems apart from traffic hazards. The public interest projected by the petitioners appears to be personal interest. Therefore, the relief sought cannot be granted to the petitioners. Accordingly the writ petition is dismissed. with no order as to costs.

CMP No. 1270, 1271, 1700 & 1714 of 2006.

No order in view of disposal of writ petition.

(Deepak Gupta), J.

(Surinder Singh), J.

April 02, 2007.
(BM)